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Approved
8/23/2011

CITY OF MINNEAPOLIS
LICENSES AND CONSUMER SERVICES
350 SOUTH 5TH STREET, ROOM 1-C, CITY HALL
MINNEAPOLIS, MN 55415

**FINDINGS OF FACT
CONCLUSIONS, AND
RECOMMENDATIONS**

FOF-2011-43

In the Matter of License No. L198 50073
aloft HOTEL MINNEAPOLIS
for LIQ ON-SALE A W/SS SERIES 3000

Held by:
900 Washington Hotel, LLC
Attn: Adam Herbranson
900 Washington Avenue South
Minneapolis, MN 55415

11-0826774

This matter came before a License Settlement Conference hearing on Tuesday, April 26, 2011. Appearing for the licensee was Adam Herbranson, General Manager of aloft Hotel Minneapolis (The aloft Hotel). Appearing for the City of Minneapolis was Grant Wilson, Manager of Licenses & Consumer Services, Phil Schliesman, Inspector for Licenses & Consumer Services, Lt.'s Chris Hildreth and Dean Christiansen, and Sergeant Rolf Markstrom, Minneapolis Police License Investigative Division. Based on the evidence presented at the hearing, the following findings of fact are asserted:

Findings of Fact

1. The Minneapolis Police Department License Investigative Division conducts youth alcohol compliance checks in an effort to assure retail-alcohol license holders are not serving alcohol to persons under the age of 21.
2. On November 24, 2009 the Minneapolis Police Department License Investigative Division conducted a youth alcohol compliance check at The aloft Hotel Minneapolis, located at 900 Washington Av S, in the City of Minneapolis. Two 18 year old males

were sent into the business in an attempt to purchase alcohol. The shoppers entered the hotel and sat at the bar. Each of the shoppers ordered a glass of Samuel Adams from the bar tender. The bar tender did not ask the shoppers for I.D., nor did he ask the shoppers for their ages. The bar tender poured two glass of Samuel Adams from the tap and served them to the shoppers. 2 plain clothes Minneapolis Police Officers were standing approximately 20 feet away from the shoppers and observed the above transaction. The shoppers picked up their respective beers and handed them off to the officers. The transaction was completed, and the business was considered to have failed the compliance check. As a result of the compliance check failure, an administrative citation was issued to The aloft Hotel in the amount of \$500.00 as detailed in a City Council Resolution. The aloft Hotel has paid the \$500.00 administrative fine.

3. On January 9, 2010 the Minneapolis Police Department License Investigative Division conducted a youth alcohol compliance re-check at The aloft Hotel pursuant to the above compliance check failure. 1 underage shopper was sent into The aloft Hotel in an attempt to purchase alcohol. The underage shopper was carded and refused service. The business passed the compliance re-check.
4. On March 24, 2011 the Minneapolis Police Department License Investigative Division conducted a youth alcohol compliance check at The aloft Hotel for the calendar year of 2011. Two 20 year old females were sent into the business in an attempt to purchase alcohol. The shoppers entered the hotel and sat at the bar. Each of the shoppers ordered a bottle of Miller Lite from the bar tender. The bar tender asked for and checked the IDs of both shoppers. After checking the IDs, the bar tender served each shopper a bottle of Miller Lite. The shoppers paid for the two beers, and the bar tender gave them their change. 2 plain clothes Minneapolis Police Officers were situated approximately 15 feet away from the shoppers and observed the transaction. The shoppers picked up the two beers and handed them off to the officers. The transaction was completed, and the business was considered to have failed the compliance check. This constituted the second youth alcohol compliance check failure for The aloft Hotel within a 24 month period. As a result of the second compliance check failure, an administrative citation was issued to The aloft Hotel in the amount of \$1000.00 as detailed in a City Council Resolution. The aloft Hotel has paid the \$1000.00 administrative fine.
5. From the first sale on November 24, 2009, the bar tender was charged with Furnishing Alcohol to a Person Under 21, and the bar tender has been convicted of said charge. Criminal charges against the bar tender are pending as a result of the March 24, 2011 failure.

Conclusions

1. On two separate occasions, employees of The aloft Hotel sold alcohol to persons under the age of 21, in violation of Minneapolis City Ordinance 370.10, Minnesota Statute 340A.503 subd. 2(1), and the established compliance check policy and procedures of the City of Minneapolis. These compliance failures all occurred in a period of less than 24 months.
2. The licensee has paid the \$500.00 administrative fine related to the first above stated compliance check failure. The licensee has also paid the \$1000.00 administrative fine related to the second above stated compliance check failure.

Recommendations

Based on evidence presented at the hearing, the Division makes the following recommendations:

1. The aloft Hotel agrees to implement a policy to card anyone appearing under the age of 40.
2. The aloft Hotel agrees to conduct their own youth alcohol compliance checks on a quarterly basis for a period of two years and keep a record of the results.
3. The aloft Hotel agrees to address alcohol service at regularly scheduled staff meetings.
4. The aloft Hotel agrees to require all staff serving liquor to attend professional alcohol server training within 60 days of hire and at least once a year thereafter.
5. The aloft Hotel agrees that a trained manager or second staff person will assist in age verification if there is a question regarding the age of the patron during any alcohol sale.
6. The aloft Hotel agrees to pay a \$1,500 civil sanction in lieu of suspension for failing a second youth alcohol compliance check. \$1,000 of the sanction is stayed pending no further youth alcohol compliance check failures for a period of one year from the signing of this agreement.
7. The aloft Hotel agrees to pay the \$500 civil sanction within 60 days of signing this agreement.

The aloft Hotel understands that the holding of a business or liquor license in the City of Minneapolis is both a privilege and a responsibility. A minimum standard shall be met in order to hold such a license. One minimum standard is that a license holder is responsible to ensure that its business operates in compliance with all applicable laws, ordinances, and regulations. It is understood and agreed that any violation of the above Recommendations shall constitute just and proper cause for the immediate imposition of any stayed penalties. It is further understood that compliance with the above Recommendations is a requirement for continuing to hold a license and that failure to comply with any of these conditions may result in additional adverse license action.

I have read and understand the above findings of fact, conclusions, and recommendations. I agree with their contents and I agree with the above noted Recommendations. I understand that the failure of my business to adhere to this agreement may be cause for further suspension, revocation, or denial of my license. I understand that this report must be accepted and approved by the Minneapolis City Council and Mayor.

Based upon the foregoing, this agreement is FREELY & VOLUNTARILY ENTERED INTO IN GOOD FAITH:

Business

900 Washington LLC

By: Adam Helbranson
(signature)

Its: General Manager
(title)

Dated: 7-22, 2011

For the City of Minneapolis:

Grant J. Wilson
Grant J. Wilson, Manager
Licenses and Consumer Services

Dated: 7-29, 2011